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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,117	09/24/2003	Frank E. Barrus	3484.1007-001	2544
21005 7590 01/09/2008 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			EXAMINER THERIAULT, STEVEN B	
			ART UNIT 2179	PAPER NUMBER
			MAIL DATE 01/09/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/670,117

Applicant(s)

BARRUS, FRANK E.

Examiner

Steven B. Theriault

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is responsive to the following communications: RCE filed 10/23/2007.
2. Claims 1-5, 7-11, 13-17 are pending in the case. Claims 1, 7, and 13 are the independent claims. Claims 6, 12 and 18-20 are the cancelled claims.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/2007 has been entered.

#### ***Claim Rejections – 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. **Claims 1-18 are rejected under 35 U.S.C 103(a) as being unpatentable over Springer et al (hereinafter Springer) U.S. Patent No. 5,936,608 issued Aug. 10, 1999,**

**in view of Brown et al. (hereinafter Brown) U.S. Publication 20030142140 filed Jan. 28, 2002.**

In regard to **Independent claim 1**, Springer teaches a method of communicating with a user of a display screen of a computer system, the method comprising:

- Decreasing brightness of each pixel of a first area on the display screen (See column 5, lines 32-37) Springer teaches dimming the visual object not in the system user's focus by a magnitude of variation (See column 6, lines 30-35). Springer also teaches that several objects can be dimmed or brightened at the same time (See column 5, lines 49-53). Springer teaches the pixel brightness is changed by the palette manager (See column 6, lines 60-67).
- Tinting each pixel of a second area on the display screen wherein each pixel in the second area displays a same tint color (See column 5, lines 35-42) Springer teaches increasing the brightness of the window when the window as users focuses by a magnitude of variation (See column 6, lines 30-35). Springer teaches coloring the pixels (See column 6, lines 55-60 and column 3, lines 15-25).

Springer does not expressly teach

- Wherein the first area and the second area comprise all content of the display screen when the abnormal condition occurred and wherein the contents remain visible to the user.

Brown shows an example where two windows comprise all content of the display screen see figure 2 and 3 and Brown teaches a system of displaying a tinting and transparency for a window, text, icon or graphic when a certain status of the application occurs, such as a failure. Brown (See figure 5) sets a table to identify by color a status of a system and for how long. Brown also teaches that by using the transparency feature all of the objects remain visible (See Para 38 and 42-45).

Brown and Springer are analogous art because they both teach varying pixel color based on a condition. In Springer the color changes on a predetermined condition and Springer teaches the color changes based on a failure.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Brown and Springer in front of them, to modify the system of Springer to include the transparency values for the content areas so that they remain visible when a failure occurs. The motivation to combine Springer with Brown comes from the suggestion in Brown that it would be advantageous to display application failures in the window that is failing and conveying the status of the window to the user (See Para 23).

With respect to **dependent claim 2**, as indicated in the above discussion, Springer in view of Brown teaches every element of claim 1.

Springer teaches a process of adjusting the coloring of visual objects on the screen that can be text or other components on a graphical interface. But Springer does not teach expressly the method wherein the pixels of decreased brightness in the first area and the tinted pixels in the second area are configured to display a text message to the user. However, these limitations would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Brown, because Brown teaches adjusting levels of colors, that can be considered brightness and also tinting the area not only with color but also transparency, which would allow for several mechanisms to color a section of the screen and make it less or more opaque. The areas of Brown can be a window as shown in figures 2 and 3.

With respect to **dependent claim 3**, as indicated in the above discussion, Springer in view of Brown teaches every element of claim 1.

Springer teaches the process of brightening a window after an event has transpired such window selection by the user. The system message to the user will be that the window will be brightened because you are using it (Springer column 5, lines 15-20,

30-42, and 60-67). Springer does not expressly teach a method wherein the tint color of the second area is selected based on an abnormal condition. However, these limitations would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Brown, because Brown teaches colors represent a status of the window (See figure 5). Brown teaches the color provides an indication of failure and the percentage of color indicates the severity of failure.

With respect to **dependent claim 4**, Springer teaches a method wherein the first area and the second area are a same area (Springer column 5, lines 15-20, 30-42, and 60-67). The message of Springer is to communicate to the user through the operating system events of changing the window brightness and the brightness can be the same area of a visual object (See column 3, lines 30-35).

With respect to **dependent claim 5**, as indicated in the above discussion, Springer in view of Brown teaches every element of claim 1.

Springer teaches the process of dimming objects that are not in focus or that items have come into focus and need to be brightened (See column 5, lines 20-41).

Springer does not expressly teach a method wherein the pixels of decreased brightness in the first area and the tinted pixels in the second area are configured to display a symbolic message to the user. However, these limitations would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Brown, because Brown teaches the message to the user with a given transparency and color indicate system status to the user (See Figure 5 and Para 0073).

In regard to **Claims 7-11**, claims 7-11 reflect substantially the same subject matter as claims 1-5 and are rejected along the same rationale

In regard to **Claims 13- 17**, claims 13-17 reflect the device comprising computer readable instructions for performing the steps of method claims 1-5, respectively, and are rejected along the same rationale.

**It is noted that any citation to specific pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).**

#### ***Response to Arguments***

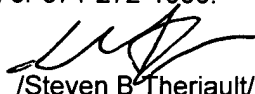
7. Applicant's arguments with respect to claims 1-5, 7-11, 13-17 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The examiner can normally be reached on M, W, F 10:00AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
/Steven B Theriault/  
Patent Examiner  
Art Unit 2179